

REMARKS

Claims 1-26 are pending in the application with claims 1, 10, 16, 25, and 26 being independent claims. No new subject matter has been introduced by these amendments.

Claims 1-9, 16-21, and 23-26 are Allowable Over the Stimson Patent in View of the Hamlin Patent

Claims 1-9, 16-21, and 23-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,502,745 to Stimson et al. ("the Stimson patent") in view of U.S. Patent No. 6,477,504 to Hamlin et al. ("the Hamlin patent"). This rejection is traversed for the reason below.

Regarding independent claims 1, 16, 25, and 26, as noted by the Examiner, the Stimson patent fails to disclose "information being used to select participants is consumer information." Indeed, there is no disclosure or suggestion in the Stimson patent to select a participant based on consumer information.

To overcome this deficiency, the Examiner relies on improper hindsight reconstruction of Applicant's invention to pick and choose among references to support the concept of selecting participants based on consumer information. Armed with the knowledge of the Applicant's invention, the Examiner improperly combines the Stimson patent with the Hamlin patent despite a lack of teaching or suggestion in the references themselves to do so. It is respectfully submitted that the Stimson patent suggests that selecting participants based on consumer information is unnecessary because, as disclosed in the Stimson patent, the survey participant is self-selected based on their purchase of a pre-paid calling card. This is supported by the fact that the Examiner failed to find a teaching related to selecting a participant based on consumer information. The disclosure of the Stimson patent obviates the need to select a participant based on consumer information, making a combination of the Stimson patent with the Hamlin patent to support the concept of selecting participants based on consumer information improper.

For at least the reason stated above, the Applicant respectfully submits that independent claims 1, 16, 25, and 26 are allowable over the Stimson patent in view of the Hamlin patent.

Based at least upon their dependence on independent claim 1, dependent claims 2-9 and 21 are also allowable. Based at least upon their dependence on independent claim 16, dependent claims 17-20 and 23-24 are also allowable. Thus, the Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) be withdrawn and the claims allowed.

Claims 10-15 and 22 are Allowable Over the Stimson Patent in View of the Thomas Application

Claims 10-15 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Stimson patent in view of U.S. Patent Application Publication No. 2002/0002482 by Thomas (“the Thomas application”). This rejection is traversed for the reason below.

Regarding independent claim 10, as noted by the Examiner, the Stimson patent fails to disclose “inviting consumers to participate in a survey program.” Indeed, there is no disclosure or suggestion in the Stimson patent to invite consumers to participate in a survey program.

To overcome this deficiency, the Examiner relies on improper hindsight reconstruction of Applicant’s invention to pick and choose among references to support the concept of inviting consumers to participate in a survey program. Armed with knowledge of the Applicant’s invention, the Examiner improperly combines the Stimson patent with the Thomas application despite a lack of teaching or suggestion in the references themselves to do so. It is respectfully submitted that the Stimson patent suggests that inviting consumers to participate in a survey program is unnecessary because, as disclosed in the Stimson patent, the survey participant is self-selected based on their purchase of a pre-paid calling card. This is supported by the fact that the Examiner failed to find a teaching related to inviting consumers to participate in a survey program. The disclosure of the Stimson patent obviates the need to invite consumers to participate in a survey program, making a combination of the Stimson patent with the Thomas application to support the concept of inviting consumers to participate in a survey program improper.

For at least the reason stated above, the Applicant respectfully submits that independent claim 10 is allowable over the Stimson patent in view of the Thomas application. Based at least

upon their dependence on independent claim 10, dependent claims 11-15, and 22 are also allowable. Thus, the Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) of these claims be withdrawn and the claims allowed.

CONCLUSION

Applicant believes that a full and complete response has been made to the outstanding rejections and objections and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that further personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided. Prompt and favorable consideration of the Amendment to the claims is respectfully requested.


The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§1.16, 1.17, and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 50-1283.

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Respectfully submitted,
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By: _____


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